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COURT OF APPEALS
DIVISION II

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STATE OF WASHINGTON

BY _____
DEPUTY

No. 48755-1-II

ORIGINAL

COURT OF APPEALS DIVISION II
OF THE STATE OF WASHINGTON

In the Matter of the Personal Restraint Petition

Ryan A. Rocquin

Petitioner

PERSONAL RESTRAINT PETITION—REPLY OF PETITIONER

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Petitioner, Ryan A. Rocquin, through counsel, replies to the State's Response to his Personal Restraint Petition. By this Reply Brief, no attempt is made to set forth a response to each of respondent's contentions, most of which are fully covered by the opening brief. Only those points requiring additional comment will be raised to assist this court in resolving the pertinent issues.

1. The Petitioner was deprived of effective assistance of counsel and seeks reversal of his sentence and remand to the Grays Harbor Superior Court to be resentenced with new counsel.

Mr. Rocquin was denied effective assistance of counsel when his attorney did not properly fill out and review the plea paperwork with his client, his attorney failed to argue for same course of conduct to reduce the offender score, his attorney refused to investigate mitigating factors, his attorney did not investigate alternative courts, such as veteran's or mental health court, and his attorney failed to challenge unconstitutional community custody terms.

FAILURE TO PROPERLY PREPARE AND REVIEW PLEA

The Respondent concedes there were several errors in the paperwork connected with the plea. Response PRP p. 9. In cause number 14-1-376-8, each document listed the incorrect sentencing range for Counts 1 and 3. The status of Sexual Exploitation of a Minor as a most

serious offense for purposes of the persistent offender statute was not disclosed. The criminal history is incorrect and there is no community custody listed. At the time that Mr. Rocquin entered into the agreement on 14-1-376-8, he was not advised of those direct consequences of his plea. In cause number 14-1-203-6, there is nothing to indicate that Mr. Rocquin was advised that the plea carried with it an indeterminate sentence. An indeterminate sentence on a charge of Child Molestation, no matter what the range, can result in up to lifetime confinement.

The petitioner does not have legal background and was unable to conduct any research while incarcerated at Grays Harbor awaiting trial.¹ The Respondent indicates the errors in the paperwork were minor and when reviewing the record as a whole the Petitioner was fully informed. Response PRP p. 9-10. It is disingenuous for the State to say the defendant understood the agreement he was entering into when the record was so unclear, the defendant had no experience with the criminal justice system, and had no access to independently conduct research for his case.

FAILURE TO RAISE "SAME COURSE OF CONDUCT"

Furthermore, Mr. Rocquin's trial counsel was ineffective when he failed to move the court for a finding of same course of conduct as to the Child Molestation 1st Degree and Sexual Exploitation of a child charges

¹ Exhibit A: Declaration of Petitioner

making the defendant have an offender score of nine instead of six. For purposes of determining sentence range, if the court enters a finding that some or all of the current offenses encompass the same criminal conduct, then those offenses shall be counted as one crime. RCW 9.94A.589(1)(a). The statute further defines "same criminal conduct" as two or more crimes that require the same criminal intent, are committed at the same time and place, and involve the same victim. *Id.* Because a finding of same criminal conduct benefits the defendant, the burden is on the defendant to raise the issue and prove it. *Id.* at 539. So for the court to make such a finding in this case, the issue would have to have been raised by Mr. Rocquin's attorney. He failed to do so.

In order for separate offenses to "encompass the same criminal conduct" under the statute, three elements must be present: (1) same criminal intent, (2) same time and place, and (3) same victim. The absence of any one of these prongs prevents a finding of same criminal conduct. *State v. Vike*, 125 Wash.2d 407, 410, 885 P.2d 824 (1994). Although the statute is generally construed narrowly to disallow most claims that multiple offenses constitute the same criminal act, there is one clear category of cases where two crimes will encompass the same criminal conduct--"the repeated commission of the same crime against the same victim over a short period of time." *State v. Porter*, 133 Wn.2d 177, 942 P.2d 974 (1997) quoting 13A Seth Aaron Fine, Washington Practice §

2810 at 112 (Supp.1996).

To determine if two crimes share a criminal intent, the courts look to whether the defendant's intent, viewed objectively, changed from one crime to the next. *State v. Dunaway*, 109 Wash.2d 207, 215, 743 P.2d 1237, 749 P.2d 160 (1987). We also consider whether one crime furthered the other. *State v. Lessley*, 118 Wash.2d 773, 778, 827 P.2d 996 (1992).

In *State v. Grantham*, the defendant was convicted of two counts of second degree rape after forcing the victim to first engage in anal sex and then engage in oral sex. *State v. Grantham*, 84 Wn.App. 854, 932 P.2d 657 (Div. 2 1997). The court found there was no “same course of conduct” because the evidence was sufficient to show that the second rape was accompanied by a new objective intent. *Id.* The trial court heard evidence that Grantham completed the first rape before commencing the second; that after the first and before the second he had the presence of mind to threaten the victim not to tell; that in between the two crimes the victim begged him to stop and to take her home; and that Grantham had to use new physical force to obtain sufficient compliance to accomplish the second rape. *Id.* Based on this evidence, the trial court could find that Grantham, upon completing the act of forced anal intercourse, had the time and opportunity to pause, reflect, and either cease his criminal activity or proceed to commit a further criminal act. *Id.*

In *State v. Farmer*, cited by the respondent, was decided before RCW 9.94A.589(1)(a) was enacted and was analyzed under the *State v. Edwards*, 45 Wash. App. 378, 380-382, 725 P.2d 442 (1986) (holding that crimes encompass the same criminal conduct if they are intimately related such that there was no substantial change in the nature of the criminal objective). In *Farmer*, the defendant brought a 16 year old male prostitute to his apartment where the two engaged in multiple acts of oral sex and the defendant took nude pictures of the male prostitute. When the male prostitute went to leave, the defendant physically restrained him from doing so and engaged in anal sex after the male prostitute fell asleep. The standard used to determine if this was the “same course of conduct” in this case is different than the analysis used today under RCW 9.94A.589(1)(a). RCW 9.94A.589(1)(a) defines “same criminal conduct” as two or more crimes that require the same criminal intent, are committed at the same time and place, and involve the same victim.

In the case hand, the Child Molestation 1st Degree and the Sexual Exploitation of a Minor should have been counted as the same criminal conduct. The State falsely implies that this incident occurred over a period of three days. That is incorrect and not supported by the facts in the case. The attached declaration of the Petitioner stated the incident occurred on April 12, 2014 and lasted approximately 5 minutes. (Exhibit A). The Defendant used a digital camera to take pictures and progressed

progressed until he was asked to stop by the victim. *Id.* This statement is supported by the victim interview² and statement of the victim's mother³. The State does not cite to any record to support its contentions. Instead it makes blanket assertions such as "[t]he petitioner had to have time to get camera equipment and begin to photograph M.A.R" and "[t]he petitioner had time between these two events to reflect." Response to PRP p. 18.

The victim interview, statement of the mother, and declaration of the Defendant indicate this was one incident that lasted approximately 5 minutes. This distinguishes the case at hand from *Farmer* and *Grantham*, where the victims were held against their will for an extended period of time where the defendant's had the time and opportunity to pause, reflect, and discontinue their behavior and chose not to. The Petitioner in this case stopped his conduct as soon as his victim asked him to stop, five minutes after the incident started. When the victim asked to stop the petitioner paused, reflected and discontinued his behavior.

The facts at hand fulfill the criteria for "same course of conduct." The incident occurred on April 12, 2014 meeting the "same time" prong of the test. The victim of each offense is listed as M.A.R., Mr. Rocquin's minor daughter. Therefore, the two crimes involve the same victim. The final prong is whether the two crimes involved the same criminal intent.

² Exhibit B: Victim Interview

³ Exhibit C: Statement of Victim's Mother

Sexual contact is a necessary element of Child Molestation 1st Degree. RCW 9A.44.083(1). To prove sexual contact, the State must establish that the defendant acted with a purpose of sexual gratification. *State v. Stevens*, 158 Wn.2d 304, 309, 143 P.3d 817 (2006). Sexual Exploitation of a Minor requires that a person cause a minor to engage in sexually explicit conduct knowing that that conduct will be photographed. RCW 9.68A.040. Sexually explicit conduct includes what was photographed here: “depiction of the genitals or unclothed pubic or rectal areas of any minor, or the unclothed breast of a female minor, for the purposes of sexual stimulation of the viewer.” RCW 9.68A.011(4)(f). It is clear that the element of sexual stimulation or sexual gratification is common between Child Molestation 1st Degree and Sexual Exploitation of a Minor.

The intent element is the same statutorily and is also fulfilled in this case because as the State notes in page 4 of its Motion and Declaration for Order for Warrant of Arrest in case 14-1-376-8, the photographs taken of M.A.R. that give rise to the charge of Sexual Exploitation of a Minor depict the actions that gave rise to the charge of Child Molestation 1st Degree. Here, the Sexual Exploitation is inextricable from the Child Molestation and both were done with the same purpose: sexual stimulation or gratification.

FAILURE TO CHALLENGE COMMUNITY CUSTODY CONDITIONS

The State concedes that at least four of the imposed community custody conditions should be stricken from the appendix. Response to PRP p. 23. However, that would not be necessary had the Petitioner's counsel been effective and challenged those terms at sentencing.

Petitioner is concerned with the condition that he not possess or peruse any sexually explicit material because the term "sexually explicit material" is vague. The State cites to *State v. Bahl*, but the condition in *Bahl* is more definite than the case at hand. In *Bahl*, the defendant was prohibited from frequenting establishments whose primary business pertains to sexually explicit or erotic material. In this context the defendant is put on notice that he cannot go into any establishment whose primary purpose is "sexually explicit" and "erotic" material. It is clear what the defendant needs to do to abide by that term of his community custody.

Here, Mr. Rocquin is prohibited from possessing or perusing sexually explicit material as a condition of his community custody. Possession and perusing sexually explicit material is not crime-related. The crime at hand dealt with an underage minor. A more appropriate condition would be the prohibition of underage sexually explicit material. Moreover, sexually explicit material is vague and could include

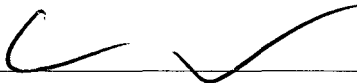
advertisements, magazines, and a plethora of material Mr. Rocquin could not shield himself from.

REQUEST FOR RELIEF

Based upon the foregoing, Mr. Rocquin respectfully requests the Court remand his cases back to Grays Harbor Superior Court for resentencing with new counsel.

OATH

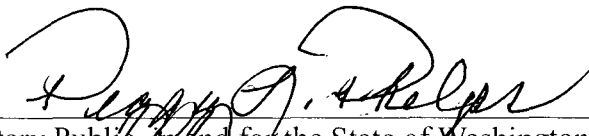
After being first duly sworn, on oath, I depose and say: That I am the attorney for the petitioner, that I have read the petition, know its contents, and I believe the petition is true.



Amber F. Henry, Attorney for Mr. Ryan A. Roquin

WSBA #: 49146

Subscribed and sworn to before me this 22nd ^{NOVEMBER} ~~October~~, 2016



Notary Public, in and for the State of Washington, residing at Spokane, Washington.

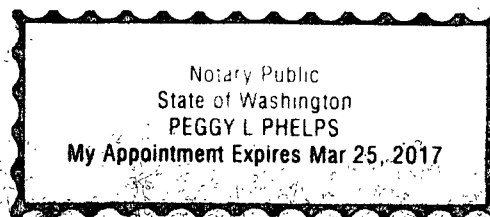


Exhibit “A”

Declaration of Petitioner

IN THE COURT OF APPEALS DIVISION II
OF THE STATE OF WASHINGTON

In the Matter of the)	
Personal Restraint Petition of:)	
)	Case No. 48755-1-II
)	
)	AFFIDAVIT OF RYAN ROCQUIN
RYAN C. ROCQUIN,)	IN SUPPORT OF PRP
)	
_____ Defendant,)	

COMES NOW, I, RYAN C. ROCQUIN, hereby swears and affirms that the following is true and correct to the best of my knowledge and belief:

1. I am over the age of 18 and competent to testify to the matters related herein.
2. I am the petitioner in this case.
3. While incarcerated at Grays Harbor County Jail pending trial I did not have access to a law library. I was unable to do any independent research regarding my case. I do not have an independent knowledge of the criminal justice system.
4. I was dissatisfied with the representation I received on this case for several reasons.
 - a. My attorney failed to explain indeterminate sentencing.
 - b. My attorney failed to investigate alternative courts that would be better suited to address my needs, such as veterans or mental health court.
 - c. My attorney failed to investigate and present mitigating factors at sentencing.
 - d. My attorney failed to obtain a mental health evaluation or CAT scan.

- e. I was not adequately advised about the plea bargain I was entering into. My attorney visited me the night before the change of plea and rushed through the paperwork.
 - f. My attorney failed to present the defense of same course of conduct between the charges.
5. The prosecutor misstates the facts of the case. The incident occurred on April 12, 2014 and lasted a total of 5 minutes. It started with the taking of pictures with my digital camera and progressing until I was told to stop.
6. I want clarification of the community corrections condition that I not possess or peruse sexually explicit material. Sexually explicit material is a vague term and could put me in violation for things I do not have control over.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

Signed at University Heights Corralin (City and State) on 10-14-16 (Date).
Center



RYAN C. ROCQUIN
A.

Exhibit “B”

Victim Interview

Marilla
Tom, Marilla, Mom/Melissa, Female

COPY

Tom: Marilla, can I move the table this way some? I'll move everything back that way 'cause remember the camera? I just got to be able to see you, ok?

Marilla: Oh yeah.

Tom: If you stand over there, I'll just move this that way. There we go. See?

Mom/Melissa: Perfect.

Tom: A little bit more comfortable huh? I'm going to ask Mom to go outside for a little bit so we can talk, ok?

Mom/Melissa: Remember what I told you? That I'd be right there?

Tom: She'll be real close, ok?

Mom/Melissa: Ok?

Marilla: I want you to stay here with me.

Mom/Melissa: I have to go talk to – remember how I had to go talk and do more paperwork? Remember that?

Marilla: I want you to stay here with me. *[Cries]*

Mom/Melissa: I know, I know sweetie. *[Comforts]*

Tom: It's ok.

Mom/Melissa: Can you tell me what you're upset about?

Marilla: I don't want to be in here all by myself with him, I want to be out there with you. *[Cries]*

Mom/Melissa: What if I sat on the floor right outside this door? Would that be ok?

Marilla: I want to be with you.

Mom/Melissa: I know, but we will be. You'll be right in here and I'll be right there.

Tom: I'll give you a little time for her to calm - get a little bit calm - and then we can work at this and we can find out if we can do another thing on this.

Mom/Melissa: Ok. Do you need to go potty or anything?

Marilla: Uh-uh.

Female: See this cool coloring book? Who is this?

Marilla: Jake.

Marilla
Tom, Marilla, Mom/Melissa, Female

Female: Jake? What's he do?

Mom/Melissa: What does Jake do? Do you remember? I haven't seen it. I don't know. Have you seen his shows?

Female: Is he a pirate? Do pirates fly or do they go on a boat?

Marilla: They go in a boat.

Female: They go in a boat? That's so cool. Have you gone on a boat?

Marilla: Yeah, I went fishing with my grandpa.

Female: You did? Was it lots of fun? Did you get any fish?

Marilla: No.

Female: No, but it was still fun, huh? It looks like your bears found some friends. Did they make friends? Do they have names? Do your bear's friends have names?

Mom/Melissa: Hey honey, I need to use the restroom – can I come right back please? I have to go potty and then I'll come back, ok?

Marilla: Ok.

Mom/Melissa: Will you take care of the bears while I'm gone? And maybe start coloring a picture? And I promise I'll be right back alright? Just for a minute. *[To Female]* Is the bathroom right there? *[To Marilla]* Ok, look, look. The door to the bathroom is right there so you stay there and I'll be right back, I promise.

Female: You want to color? What's that?

Marilla: A bird.

Female: A bird?

Marilla: I'm tired. I was up late last night.

Female: You were?

Marilla: My grandma came probably I don't remember.

Tom: She did?

Marilla: She probably did, I don't remember. But I was up late.

Tom: You were up late?

Marilla
Tom, Marilla, Mom/Melissa, Female

Marilla: Yeah, 'cause I watched my bears last night and then we first of all, before we had lunch we had - we did an Easter egg hunt and then we went to grandma's and had a Easter egg hunt and then we went home and then we brushed our teeth and we went to bed.

Tom: Ok. So you went to bed late after Easter egg hunts and - cool. You know, tell me more about the Easter egg hunt.

Marilla: I found most of the ones up top.

Tom: You did? Well, that's cool. Could we close the door for a little bit?

Marilla: Yeah.

Tom: Thank you.

Marilla: But my mom is going to be right back in.

Tom: Oh, ok. Well, if your mom – after she goes bathroom – can she go sit down someplace else and then she'll be real close to you. Can we do that?

Marilla: Uh-uh.

Tom: Ok, well...K, If yourmom came inside and we talked, it's just me and you talking is that ok? So mom can't say anything though, but you can tell me everything, but she'll sit right over there, ok? But you have to talk to me. You promise to talk to me if I let mom sit back there? Is that a yes or a no?

Marilla: Yes.

Tom: 'Cause I can't listen to your head, huh? Can you give me a minute to talk to your mom real quick before we come back in?

Marilla: Yeah.

Tom: Ok.

Female: What are you coloring? What is that? A scuba diver? No?

Marilla: Coloring the pirate.

Female: Oh, he's a pirate? Who's this?

Marilla: A fish.

Female: A fish?

Marilla: I don't know the fishe's name but I bet he's a fish.

Female: Ok. Well, you could give him a name. Do you want to give him a name?

Marilla
Tom, Marilla, Mom/Melissa, Female

Marilla: No.

Female: That's ok, you don't have to. Do you think he's talking to the fish?

Marilla: He's probably waving.

Female: Oh, he's waving. You don't think he's talking? He has lots of colors huh? Are you all done?

Marilla: I just want my mom to be in here with me.

Female: I know.

Mom/Melissa: Hey baby, I'm back. I told you I'd be right back, didn't I? [*Kisses Marilla*]

Marilla: Can you stay with me?

Mom/Melissa: Well, I need to go put my coat away and I need to go get some chap stick, so why don't you talk to Tom for a little bit and I'll be back in a little while. Ok? I gotta go talk to them out there. Remember how I have to do all that paperwork? Ok?

Marilla: I want you to stay with me.

Mom/Melissa: I know you do.

Marilla: I want you to take me with you too.

Mom/Melissa: Well, I'm not going to go anywhere. You remember my first ____? I was going to go _____. K? I'll be right back. Sit down and color, I'll be right back. Promise. Love you.

Tom: Let's talk while she's gone. Ok? So, we talked about your bear didn't we? And you told me his name was...again?

Marilla: Light Brown.

Tom: Light Brown.

Marilla: No, not light brown – Light Brown Ink.

Tom: Light Brown Ink. That's right, so you corrected me, didn't you? So, when we talk today, I want you to correct me if I make a mistake, ok? Will you do that? I told you out there my name's Tom, huh? Now, you see the blue light? The blue light means they can hear us on that camera. So if they can hear us they're going to knock twice. [*Knock, knock*] They can hear us. Ok? So what I need you to do is I need you to talk up. I need you to use your big girl voice, ok? Will you do that?

Marilla
Tom, Marilla, Mom/Melissa, Female

Marilla: Yeah.

Tom: Very good, thank you. Well- you were coloring. You don't want to color anymore? Ok. Face me so I can hear your voice when you talk. You have a nice voice. So, can you tell me your first name?

Marilla: Marilla.

Tom: Marilla. What's your last name?

Marilla: Roakan.

Tom: Roakan. How old are you? You have five fingers up. You know that number?

Marilla: Five.

Tom: Five. Very good. And today's date is April 22nd, it's Tuesday, it's 12:41 PM, and this is an Aberdeen case, it's 14-8806782. So, Marilla, I know you like stuffed animals and I know you have cats and I know you like dogs, and you have a dog, but I heard something else that you like. What else do you like?

Marilla: Cheetahs.

Tom: You like cheetahs. Tell me why you like cheetahs.

Marilla: 'Cause they can run fast.

Tom: That's true, they can huh? And are there other animals that you really like?

Marilla: Cougars and bobcats.

Tom: Cougars and bobcats.

Marilla: 'Cause my grandpa has _____ on the bobcats.

Tom: Oh, he is. Well, that's cool. Bobcats are cats too aren't they?

Marilla: Cougars are cats and I really like cats.

Tom: I see you like cats – you named them all. Well, I heard you like a particular movie.

Marilla: *Jake and the Neverland Pirates.*

Tom: You like that movie huh? Is there another movie you like?

Marilla: *Frozen.*

Marilla
Tom, Marilla, Mom/Melissa, Female

Tom: Ah, that's the one I heard about. When did you see it?

Marilla: I have it at my home.

Tom: You have it at your home.

Marilla: I watched it last night.

Tom: Tell me about the movie.

Marilla: I don't remember all the parts.

Tom: Well, tell me what you remember.

Marilla: I don't want to.

Tom: You don't want to tell me what you remember?

Marilla: No.

Tom: No? The name says *Frozen*. Is there something about the movie that has the word frozen in it? Where are you going?

Marilla: _____.

Tom: Ok, you can do that. I'm going to put this over here so we can hear it. Ok? Well, you go to school?

Marilla: Yeah.

Tom: Did you go to school today?

Marilla: Uh-uh. No school on Tuesdays.

Tom: You went to school yesterday?

Marilla: Yeah. Just on Mondays.

Tom: Tell me about your school.

Marilla: I don't want to either.

Tom: K. Well, tell me about your family.

Marilla: I love my dad and I love my brother.

Tom: You love your dad and you love your brother?

Marilla: And my mom.

Tom: And your mom. Ok. Well, what's their names?

Marilla
Tom, Marilla, Mom/Melissa, Female

Marilla: My dad's name is Adam, my brother's name is Kean, and my mom's name is Melissa.

Tom: So, Adam, Kim and –

Marilla: Not Kim, Kean.

Tom: Kean. That's your brother. And then Melissa is your mom. Adam's your dad. Ok. So I've got that right. Very good, thank you.

Marilla: I want to see my dog. My dog is probably in that window.

Tom: Is your dog here?

Marilla: Yeah, but we had to go outside with her. Leave her in the truck. I don't – mine is the blue truck.

Tom: Oh, ok.

Marilla: But I can't see my dog.

Tom: You've got dark windows huh, so you can't see him. And that's good for dogs, isn't it?

Marilla: Yeah, so the sun doesn't shine in their eyes.

Tom: Ok. Well, so, what's your dog's name?

Marilla: Millie.

Tom: Millie. Well, tell me about your mom. Tell me what you like about her.

Marilla: I love her. And she takes me places that I really like. Like, she took me out for lunch.

Tom: Where did you go for lunch?

Marilla: A place near here, I don't know what it's called.

Tom: Can you come over here and sit closer to this? Here, got it?

Marilla: I want to sit like this.

Tom: Ok, you can sit like that. So, you went to lunch. What type of food did you have?

Marilla: Beef enchilada.

Tom: An enchilada. And what did your mom have?

Marilla: I don't remember, but she did have a lot of tomatoes and gravy.

Marilla
Tom, Marilla, Mom/Melissa, Female

Tom: A lot of tomatoes and gravy. And did you eat with you and your mom or did someone else go with you?

Marilla: Just me and my mom and my brother. 'Cause my dad is at work. He had a doctor's appointment too, but by now he's at work.

Tom: Ok. What else do you like about your mom?

Marilla: I like her 'cause she takes me places.

Tom: What types of places does she take you?

Marilla: Sometimes she takes me to the park, or mostly my grandma does. And my auntie.

Tom: Your auntie? And what's your auntie's name?

Marilla: Erin.

Tom: Erin. Ok.

Marilla: I have a sister named Erin.

Tom: You have a sister named Erin?

Marilla: Uh-huh.

Tom: Ok. What don't you like about your mom?

Marilla: Well, when I'm hungry she says if I'm hungry, after I go potty I have to wash my hands.

Tom: That's true, you would, huh?

Marilla: Yeah, because she can't see me in the mirror. Only if I raise my hand she will be right there. That's what she told me.

Tom: She did? Ok, so tell me about your brother.

Marilla: He always climbs on my back and likes me to give him piggy backs. But I can't stand up. I can only do it on my hands and knees. That's what dad does.

Tom: Is your brother smaller than you or bigger than you?

Marilla: Smaller. He's about this big.

Tom: That big.

Marilla: I think he's about this small.

Tom: That's pretty small.

Marilla
Tom, Marilla, Mom/Melissa, Female

Marilla: He was born in February.

Tom: Oh, ok. So he's not very old at all is he?

Marilla: No. He's not very big at all either.

Tom: Tell me about your dad. [*Knock, knock, knock*] Oh, hang on. Oh, I guess your wish came true. You said you were hungry huh?

Marilla: I'm really hungry. Those are hard to open sometimes.

Tom: If you need help let me know. You need help?

Marilla: Uh-huh.

Tom: K, so tell me about your dad.

Marilla: He likes to take me places and he tickles me a lot.

Tom: He likes to take you places and he tickles you a lot. So where does he tickle you at?

Marilla: On the head.

Tom: On your head. How does he tickle you on your head?

Marilla: With his hands.

Tom: What's he do? When he tickles you on your head?

Marilla: I giggle.

Tom: And how does that feel?

Marilla: Good. Thank you.

Tom: So what else do you like to do with your dad?

Marilla: He likes to take me places.

Tom: What type of places do you go?

Marilla: I don't know.

Tom: Tell me about the last place that your dad took you?

Marilla: He took me to a coffee stand.

Tom: He took you where?

Marilla: To a coffee stand.

Marilla
Tom, Marilla, Mom/Melissa, Female

Tom: It's kind of hard to understand when you're eating, huh? And where was that at? Do you remember?

Marilla: When we were going to church.

Tom: When you were going to church.

Marilla: I had whipped cream instead.

Tom: You had whipped cream. Did you just have whipped cream or did you have something else to drink?

Marilla: My and my brother can't have chocolate because we spilled a few times with hot chocolate so we just have whipped cream.

Tom: Oh, ok. So I take it you really like whipped cream?

Marilla: Uh-huh.

Tom: You have a sister you said. What do you like about her?

Marilla: When I poke her she laughs a little.

Tom: When you poke her?

Marilla: Play with her.

Tom: Play with her. So if I don't understand you, I may ask you to tell me again huh? So what do you guys play?

Marilla: Well, I have to stand over her cause she's just a baby. And then I mostly tickle her head like my dad does.

Tom: What does she do when you tickle her head?

Marilla: She kinda giggles a little.

Tom: Well, those are nice things huh? So tell me what you don't like about your sister?

Marilla: When she cries.

Tom: What does that do to you when she cries?

Marilla: It makes her feel like she's hungry or she needs her diaper changed.

Tom: So she's really small? When was she born?

Marilla: [Pause] February.

Tom: So your little brother was born in February?

Marilla
Tom, Marilla, Mom/Melissa, Female

Marilla: No, my sister.

Tom: Your sister was born in February. Ok. And what about your little brother?

Marilla: He was born in June.

Tom: So he's bigger than your little sister.

Marilla: Uh-huh.

Tom: Well, that's kind of neat. So, they all live with you?

Marilla: Uh-uh.

Tom: Where do they live?

Marilla: My sister, she lives in Aberdeen, _____.

Tom: Ok. So who's your sister live with?

Marilla: My mom Sarah. One's my stepdad – no, one's my stepmom, one's my real dad.

Tom: And your real dad's name is?

Marilla: Ryan.

Tom: Ryan. And you live with your mom and Adam. And Adam is your –

Marilla: Stepdad.

Tom: Stepdad. Tell me what you don't like about your stepdad.

Marilla: He always yells at my brother. And my mom's not very happy 'cause my brother broke – he tore up my mom's old little dress. I got one, and I didn't tore up mine.

Tom: Well that was good that you didn't tear it up.

Marilla: They're very, very, very old. They're from when she was a baby. A little girl.

Tom: Those were old then huh? Long time ago.

Marilla: My mom's 29.

Tom: Your mom's 29?

Marilla: Uh-huh.

Marilla
Tom, Marilla, Mom/Melissa, Female

Tom: Oh, cool. So, you called him your biological dad? His name's Ryan? Tell me about him. Tell me about your dad.

Marilla: That I like him 'cause he takes me to the park.

Tom: Where else does he take you?

Marilla: To see my grandma in the morning. Every morning.

Tom: Every morning?

Marilla: Uh-huh. What are you doing?

Tom: Tell me about your stepmom.

Marilla: I'm happy that she had a baby.

Tom: You're happy she had a baby? Tell me what you like about her.

Marilla: That she comes and changes our baby's diaper when she needs it and feeds the baby. And the diaper when she needs it.

Tom: What else? What else do you like about her?

Marilla: That she takes me lots of places.

Tom: Well, that's good.

Marilla: And daddy takes me sometimes to see her at work.

Tom: Well, that's kind of nice huh? So, today when we talk, as I said earlier—

Marilla: You said top.

Tom: Oh, well, I'm glad that you corrected me. Thank you.

Marilla: First you said top, then you said talk.

Tom: When we talk today, you just corrected me a second time, which is good, that's what I want you to do, ok? And also, if I ask you a question today and you know the answer, I want you to tell me ok? But if you don't know the answer, you can say, "I don't know." Ok? Will you do that?

Marilla: Ok.

Tom: So if I asked you a question, "What's my dogs name?"

Marilla: I don't know.

Tom: 'Cause I didn't tell you my dog's name, did I? So I want you to do that when we talk.

Marilla
Tom, Marilla, Mom/Melissa, Female

Marilla: What color is your car?

Tom: My car? Silver.

Marilla: My car is silver. But he took it when he took the blue truck.

Tom: He did?

Marilla: Uh-huh, 'cause the truck goes more farther than the car does. The car doesn't go very far. 'Cause my dad works very far from our house.

Tom: Today, when we talk, we're going to talk about things that really happened, ok? And things that you can answer, hopefully. If I said that my pants are pink, and I telling the truth or am I telling a lie?

Marilla: A lie.

Tom: Why?

Marilla: 'Cause your pants aren't pink, they're blue.

Tom: Very good.

Marilla: But I do have my pink skirt, it's pink.

Tom: You do. So, today when we talk, you promise to tell me the truth?

Marilla: Mmm-hmm.

Tom: Do you know why you're here today? To talk to me?

Marilla: Uh-uh.

Tom: K, we started talking about your family, huh? And you told me about your mom. And a little bit about your mom and a little bit about your stepdad. Your brother, your sister—

Marilla: Half-sister.

Tom: Half-sister.

Marilla: And my half-brother.

Tom: And your half-brother. You told me a little bit about your step-mom and your dad.

Marilla: He took me to the park. And they always feed me breakfast.

Tom: They do? Well, that's nice of them. You need to eat breakfast huh?

Marilla: And my sister. And my dad. And my mom.

Marilla
Tom, Marilla, Mom/Melissa, Female

Tom: What type of breakfast do they cook you?

Marilla: They don't cook it, they make it.

Tom: They make it.

Marilla: They make cereal all the time.

Tom: They make cereal all the time.

Marilla: Just for me.

Tom: So what's your favorite cereal?

Marilla: Chex and Cheerios.

Tom: Ah, those are good cereals.

Marilla: Uh-huh.

Tom: What don't you like about your dad?

Marilla: I like him about when I get to go to the park - and he's going to get a dog soon.

Tom: He's going to get a dog soon?

Marilla: He has to get a fence so the dog doesn't run out.

Tom: That would probably be good.

Marilla: 'Cause if we did that the dog would be away for a long time.

Tom: Yep. Gotta make sure the dogs don't run away huh? So you told me what you liked about him. What don't you like about him?

Marilla: When I get shots.

Tom: When you get shots?

Marilla: Cause they really hurt.

Tom: When's the last time you got a shot?

Marilla: When I went to the doctor.

Tom: When did you go to the doctor?

Marilla: A couple weeks ago.

Tom: Why did you go to the doctor?

Marilla: I don't know. Probably because I'm not feeling very well today.

Marilla
Tom, Marilla, Mom/Melissa, Female

Tom: Probably about what...you were chewing and I didn't understand you.

Marilla: Probably because I'm sick.

Tom: Why are you sick?

Marilla: I don't know, my head just really hurts.

Tom: So when's the last time you went to the doctor?

Marilla: Last week.

Tom: Last week? Was that because you were sick or something else?

Marilla: Probably because I needed to go there.

Tom: Why did you need to go to the doctor then?

Marilla: I don't know.

Tom: Who took you to the doctor?

Marilla: My mom.

Tom: Did she tell you why she took you to the doctor? Why do you think you went to the doctor?

Marilla: I don't know.

Tom: What did they do when you went to the doctors?

Marilla: They gave me a shot.

Tom: They gave you a shot.

Marilla: But, before I got a shot I started crying.

Tom: Why were you crying?

Marilla: Because it hurt really bad.

Tom: You cried before you got the shot?

Marilla: Yeah, 'cause I have had to get a shot quite a few times.

Tom: Oh, you have. Ok. So you cried before they gave you the shot last week, huh? Ok.

Marilla: I said, "Mom, mom, why do I have to get a shot?"

Tom: When you were at the doctors what did you guys talk about?

Marilla
Tom, Marilla, Mom/Melissa, Female

Marilla: This one isn't the other one, this one's the one we went to before the other one. This one we didn't have no needles and no shots.

Tom: Which one was the other one? Why did you go to that doctor with no needles and no shots?

Marilla: 'Cause they just had to talk to me and give me a shot. No, not a shot. They gave me a little –

Tom: Where did you go to see that doctor that they didn't give you a shot?

Marilla: I don't remember. I don't remember. Probably in _____. I don't know.

Tom: And what'd you guys talk about?

Marilla: Of when he licked my bottom.

Tom: About your bottom?

Marilla: Licked my bottom.

Tom: He licked your bottom?

Marilla: Yes.

Tom: When did that happen?

Marilla: When I was at there last week.

Tom: Last week you were there?

Marilla: Uh-huh.

Tom: Did he do that one time or more than one time?

Marilla: More than – uh, one time.

Tom: One time? Ok. Where were you when that took place?

Marilla: What?

Tom: Where were you at when that happened? When he licked your bottom?

Marilla: Home.

Tom: Whose home?

Marilla: My home.

Tom: Your home?

Marilla: My stepmom's home.

Marilla
Tom, Marilla, Mom/Melissa, Female

Tom: And your stepmom again is Sarah, and she lives with—

Marilla: Daddy Ryan.

Tom: Who?

Marilla: Daddy Ryan.

Tom: You said it really quick and I didn't understand you. Thank you. Thank you very much, I appreciate it.

Marilla: 'Cause I said it so quick.

Tom: You said it very fast that's why. So—

Marilla: Is it ok if I go up to my mom's again, you and me?

Tom: Real soon, ok?

Marilla: What?

Tom: You said you wanted to go...?

Marilla: To my mom's.

Tom: Well, can we talk just a little bit more? Cause you're doing a really good job.

Marilla: How 'bout three more times?

Tom: Is that three more minutes?

Marilla: No, that's three more times.

Tom: Three more times, ok. Let's see what we can do then, ok? I don't want to promise you three more times.

Marilla: Do you have a garbage in here?

Tom: I can throw that – oh, you can throw that right over there. Ok, so you are at your daddy Ryan's house and who else was home?

Marilla: My dog Kea.

Tom: Who?

Marilla: My dog Kea.

Tom: Your dog Kea.

Marilla: No, not my dog Kea, my cat Kea.

Tom: Ok.

Marilla
Tom, Marilla, Mom/Melissa, Female

Marilla: He always hisses at me and growls at me.

Tom: Ok, where were you in the house when—

Marilla: One time she bit me and scratched me.

Tom: She did?

Marilla: Yes, and I hated it. What's that called?

Tom: It's like a Bluetooth. Are they knocking?

Marilla: Uh-huh.

Tom: They are? They're knocking?

Marilla: They just were I think.

Tom: I can't hear. For some reason it's not working. So.

Marilla: That was weird. That was really weird. You couldn't even hear they were knocking but I could hear.

Tom: Because they're loud out there too huh?

Marilla: I heard my mom's voice.

Tom: You did?

Marilla: Uh-huh. And I really have to go potty too.

Tom: You gotta go potty?

Marilla: Uh-huh.

Tom: Ok, if you have to go potty let's stop so you can go potty real quick. Because I don't want you holding that. K? It's right out there.

Marilla: So I don't pee my pants.

Tom: Yeah, we don't want that do we? It's right there.

Mom/Melissa: Hi baby. I told you I would be here.

[Pause from 0:39:11.7 to 0:41:37.8]

Female: That's kind of a heavy door isn't it?

Marilla: Yeah.

Female: Can I see what you're drawing?

Marilla
Tom, Marilla, Mom/Melissa, Female

Marilla: I want to go see my mom now.

Female: How's that snack?

Marilla: Good.

Female: Did you like the fruit snacks?

Marilla: I want to go see my mom right now.

Female: I think you're moms coming right back -- can you wait a couple minutes? Maybe finish your crackers real quick?

Marilla: I don't want to.

Female: You don't want to finish them? You don't have to finish them.

Tom: You don't have to finish them.

Female: Are you still hungry?

Marilla: Uh-uh.

Female: You don't want something different?

Marilla: Well, if you have something....

Female: I think there might be chips.

Tom: They're might be some chips. You eat chips?

Marilla: I love chips for lunch.

Female: Well, these are like *Pringles* chips, I think.

Tom: They're like potato chips.

Female: Would you like some?

Marilla: Mmm-hmmm.

Female: And there's more fruit snacks.

Marilla: Uh-uh.

Female: Doesn't sound good? Ok.

Marilla: What else do you have? Besides chips?

Female: Tom, go ahead, do you know? There might be pepperoni sticks?

Marilla: I could try those.

Female: You want to try one of those?

Marilla
Tom, Marilla, Mom/Melissa, Female

Marilla: Uh-huh. 'Cause I've never tasted one.

Tom: You've never had a pepperoni stick?

Marilla: Uh-uh.

Tom: Come over here and have a seat again. You got to get the bear.

Marilla: One time I lost my bear at my grandma's.

Tom: You did? How long did you lose her for?

Marilla: Just one night.

Tom: One night? That's not that long is it?

Marilla: I couldn't sleep very well one night 'cause that's when I didn't have her.

Tom: Ok. Well, we were talking about what happened at your daddy's house.

Marilla: That's all. It's ok if we go get my mom now?

Tom: Well, can I ask you just a couple more questions?

Marilla: Sure. That's it.

Tom: You're gonna hold me to that? *[Laughs]* You gonna give me a little leeway? Just a little space? Ok. We'll see, ok? Oh, pudding.

Marilla: Can you open that?

Tom: Yes, I can open that for you too.

Marilla: Why do I have a spoon?

Tom: Well, you need it for the pudding don't you? Or do you use your fingers?

Marilla: I like to dip it in—

Tom: You're going to dip that in there?

Marilla: Yeah. It's hard to open. Do you like pudding?

Tom: I like pudding. Vanilla pudding.

Marilla: Can you open that?

Tom: There. I can do that. So, while we're doing this we'll talk, k?

Marilla: This tastes like vanilla.

Tom: Yeah. I'm not going to open it all the way 'cause I don't want to touch it. That's open now. So you can pull it out now or something.

Marilla
Tom, Marilla, Mom/Melissa, Female

Marilla: This is a funny looking snack.

Tom: And you made a funny face. So when your daddy licked your bottom—

Marilla: It felt weird.

Tom: Hmm?

Marilla: It felt weird.

Tom: You felt weird? It felt weird? What room in the house was it done at? Where were you at?

Marilla: My room.

Tom: Your room?

Marilla: Uh-huh.

Tom: And when—

Marilla: When mommy Sarah came up and he pulled me off the bed and he was in front of my face and getting me undressed he said, “we’re getting undressed.”

Tom: Who said that?

Marilla: Daddy Ryan

Tom: He did that. Ok. Well, what room is your room at your daddy Ryan’s house?

Marilla: The one with the pictures.

Tom: The one with the pictures? What type of pictures?

Marilla: And the wooden wall.

Tom: And the wooden wall?

Marilla: Mmm-hmm.

Tom: How many beds are in that room? [*Marilla holds up two fingers*] Two.

Marilla: Mmm-hmm. One for my friend, one for me.

Tom: Who’s your friend that comes over?

Marilla: Audrey. And her dad Jordan.

Tom: When your dad licked your butt—

Marilla: Bottom.

Marilla
Tom, Marilla, Mom/Melissa, Female

Tom: Bottom.

Marilla: Butt is not a very good word.

Tom: And I'm glad you corrected me. When your dad licked your bottom where was your stepmom and your—

Marilla: They were downstairs feeding Erin.

Tom: They were downstairs feeding Erin. Ok. What were—

Marilla: I don't really like this anymore.

Tom: You don't have to eat it if you don't want it.

Marilla: You can have it.

Tom: I'll throw it away for you. Were you already in your room at the time that it happened? Did you go up to your room? Or why did you go up to your room?

Marilla: I wasn't in trouble. My dad just took me upstairs so he could just lick my bottom and get me undressed.

Tom: Ok. So he took you upstairs. What did he tell you? *[Pause]* K, what did he lick your bottom with?

Marilla: His tongue.

Tom: When you went upstairs, why did you go upstairs? What happened? What was said, what was done?

Marilla: Daddy wanted to lick my bottom upstairs.

Tom: So he said that?

Marilla: Mmm-hmmm.

Tom: What else did he say?

Marilla: He asked me if it tickled and I said yes.

Tom: What else did he do?

Marilla: He just did that.

Tom: He just did that? Did he do anything else to your bottom?

Marilla: Uh-uh. But I did scrape my toe on the wall.

Tom: You did? What wall did you scrape your toe at?

Marilla
Tom, Marilla, Mom/Melissa, Female

Marilla: My brother's room.

Tom: Your brother's room.

Marilla: Uh-huh. Can I go out to my mom now?

Tom: Tell me what you told your mom about what happened.

Marilla: I told her that I – the other night when she was cleaning my ears that daddy licked my bottom.

Tom: Ok, what else did you tell her?

Marilla: Just that.

Tom: Did you tell her about anything else?

Marilla: Oh yeah, he touched me, not with a burning candle, but the hole of it, it was all plastic, when he touched my bottom with it it was really, really, really weird.

Tom: It felt really, really, really weird?

Marilla: Uh-huh.

Tom: What did it look like - the candle thing?

Marilla: It looked plastic. It felt plastic.

Tom: It felt plastic?

Marilla: Yeah, you cannot put it in your mouth, but if you were to touch your bottom with that.

Tom: Well, can I ask you, I gotta ask you a couple questions, and I gotta make sure I know what you're talking about, cause I can't guess what you're talking about huh?

Marilla: How old are you?

Tom: Old.

Marilla: Older than my mom?

Tom: Yeah, I'm a lot older than your mom. If she's 29, I'm a lot older.

Marilla: How old?

Tom: I'm 57.

Marilla: 57? My grandpa's 58. Older than you.

Marilla
Tom, Marilla, Mom/Melissa, Female

Tom: Just one year.

Marilla: My grandma's 52.

Tom: That's not that old really. We're not old, really. What does this look like?

Marilla: A human.

Tom: A human. Ok. Can you describe parts to me? Can you tell me what parts are on this that you see?

Marilla: Arm, arm, head, legs.

Tom: Ok. On that, is there a place you said your bottom is, that you can see on that? Right there?

Marilla: He licked me right there.

Tom: Can you mark it for me?

Marilla: With a crayon?

Tom: You can mark it with a crayon. That's fine.

Marilla: Do you have markers?

Tom: Actually, not in here.

Marilla: Do you circle it?

Tom: However – you can do whatever you want to mark it. That's nice, thank you very much.

Marilla: I'm doing a butterfly.

Tom: Well, now, you call that the bottom. Is there any difference between the front part of your bottom and the back part of your bottom?

Marilla: No.

Tom: Ok. So when he licked your bottom, where were your clothes?

Marilla: I was about for us to go to the park and mom said I had to wear shorts 'cause it was a lot warmer. These are bike shorts, so I have them under my skirt.

Tom: But when this happened, when your dad licked your butt, where were your clothes?

Marilla: I had no shirt, no pants, no underwear.

Tom: No underwear, no shirt, no pants?

Marilla
Tom, Marilla, Mom/Melissa, Female

Marilla: Yeah, I was about for us to go to the park and he was getting me undressed.

Tom: So who was changing you?

Marilla: Daddy Ryan.

Tom: Daddy Ryan was changing you?

Marilla: Uh-huh. He's the one who pulled me off the bed.

Tom: He pulled you off the bed?

Marilla: Yeah.

Tom: Why'd he pull you off the bed?

Marilla: Actually, he carried me off the bed.

Tom: He carried you off the bed. Why'd he carry you off the bed?

Marilla: Because we didn't want mommy Sarah to see what we were doing. 'Cause that would be very, very inappropriate.

Tom: Very inappropriate? What does very inappropriate mean?

Marilla: It means it's not very good to do.

Tom: Very good.

Marilla: Like no beuno. Can we go to my mom now?

Tom: So, is there – where your daddy licked you, you said the bottom, is there a certain thing that comes out of it when you go to the bathroom?

Marilla: Pee. And poop.

Tom: Did he lick you on both of them or only one of them?

Marilla: Only one.

Tom: Ok, which one did he lick you on?

Marilla: Front pee.

Tom: Front pee?

Marilla: Front pee. But no pee was coming out. You know, if he ate pee, he would get sick and he would die.

Tom: You said about a candle, a pink candle.

Marilla: A pink plastic candle.

Marilla
Tom, Marilla, Mom/Melissa, Female

Tom: And where did he – where did that touch?

Marilla: Front part.

Tom: Ok. And what did that make you feel like when he touched you with it?

Marilla: It tickled.

Tom: Tickled.

Marilla: Can we go out yet?

Tom: Close. Did it do anything when it touched you?

Marilla: One more word, ok?

Tom: Ok. Can you draw me a picture of that - that you saw, that candle? Just show me what it looked like. Show me what it looked like by drawing it.

Marilla: The candle?

Tom: Whatever he touched you with.

Marilla: He touched me with a candle.

Tom: Can you draw it out – what you remember it looked like? It would really help me understand what it was.

Marilla: *[Drawing]* It was about that long, and then it was like that and then it was like that.

Tom: It had stuff on top of it?

Marilla: Yeah.

Tom: What did the stuff on top of it look like?

Marilla: A green fire, because fire comes out of it sometimes.

Tom: And he touched you on the front part, but did he touch you on the outside or something else?

Marilla: He touched me with his finger too.

Tom: He touched you with his finger too?

Marilla: Uh-huh.

Tom: You said something about fire on this?

Marilla: It comes out of the candle.

Marilla
Tom, Marilla, Mom/Melissa, Female

Tom: Fire comes out of candles. Was this something that fire was coming out of?

Marilla: Uh-uh.

Tom: Ok. Did it do anything else? You said it was plastic? Was there anything else on it or something?

Marilla: No. But it was pink.

Tom: Where did he get the candle from?

Marilla: Probably the store, I don't know.

Tom: In the house, where did it come from?

Marilla: In my room.

Tom: It was in your room?

Marilla: Uh-huh.

Tom: Where at in your room?

Marilla: I don't know, he just found it in there.

Tom: He found it in your room. When he did that what did that make you feel like?

Marilla: It tickled. Can we got out now? Is that ok with you if we go out now?

Tom: You said the candle came from your room? Was it something that was in your room already, something that you have or something that somebody else had?

Marilla: He probably found it in his room.

Tom: He probably found it in his room? Did he leave your room? Did he stay in your room after you guys went up?

Marilla: He stayed in my room after we went up.

Tom: What happened after he touched you with the candle and with the finger and after he licked you? What happened after that?

Marilla: He carried me off the bed, we went in front of me. He was getting me undressed.

Tom: You said something about he didn't want your stepmom to see?

Marilla: He had the door slammed shut.

Marilla
Tom, Marilla, Mom/Melissa, Female

Tom: He had the door slammed shut?

Marilla: Yeah. He actually could have locked it but it wasn't locked.

Tom: When you said he touched you and he licked you and you didn't have your pants on and you shirt on or your underwear on, was he—

Marilla: He was getting me dressed.

Tom: When he did that was that – if I touched somebody here on my shirt, would that be skin to skin or would that be something else?

Marilla: Skin to skin.

Tom: K, That's skin to skin if I have a shirt on? What's this?

Marilla: Skin.

Tom: K, so if I touch myself with my hand on my skin what would that be?

Marilla: Skin to skin.

Tom: And what would this be on my shirt? Skin to shirt or skin to skin?

Marilla: Skin to shirt.

Tom: So when your daddy Ryan touched you was it skin to skin or skin to something else?

Marilla: Skin to bottom.

Tom: Skin to bottom?

Marilla: Yeah, 'cause he touched me with my bottom. Then he made me touch him.

Tom: He made you touch him?

Marilla: Yes. On his bottom.

Tom: I can't hear you down there. 'Cause it's way down there and I can't hear you.

Marilla: He made me touch him with his hand on his bottom.

Tom: What did his bottom look like?

Marilla: Lots of hair.

Tom: Lots of hair? What part of his body is his bottom on?

Marilla: I don't know.

Marilla
Tom, Marilla, Mom/Melissa, Female

Tom: Well, if you - you said this was a human - so where on his body did you touch? Where were his clothes when you touched him?

Marilla: His pants were down.

Tom: His pants were down. [*Marilla drawing*] What's that?

Marilla: Pants down.

Tom: Where were your underwear and your clothes at when he touched you? Were they someplace else? Or...? Were they completely on you or off you?

Marilla: Off me.

Tom: You said his pants were down. How did you touch him? What did you touch him with?

Marilla: My hand.

Tom: You said you touched his bottom. What happens if he went to the bathroom with the bottom that you touched? What's he go? Do you know?

Marilla: Uh-uh. This is him with a green shirt on. And this - this is me.

Tom: That's you? When he was doing these things was he doing anything else?

Marilla: Uh-uh.

Tom: You said something about there's pictures in your room? What types of pictures are in your room?

Marilla: Ballerinas.

Tom: Ballerinas. When you were at the doctor and you talked to the doctor, did you tell him about what happened with your dad?

Marilla: Uh-huh.

Tom: And di you tell him about other things that he did? What else did you tell the people at the doctors about what happened at your dads?

Marilla: I drew a whole picture of my house. My house is pretty big.

Tom: You did. When you talked to the doctor's office you talked to people right? And were those people -

Marilla: They were doctors.

Tom: They were doctors?

Marilla
Tom, Marilla, Mom/Melissa, Female

Marilla: Uh-huh.

Tom: And you told them about what happened at your daddy's house?

Marilla: Yeah.

Tom: So, Marilla, when you told them what happened you told them about him licking your bottom, and you told them about—

Marilla: What is on the bottom of the line, what does it spell?

Tom: A-V-A. Ava?

Marilla: I have a friend named Ava.

Tom: Oh, you do? You told them about the pink candle, did you tell them about other things?

Marilla: Uh-uh.

Tom: Did they take notes or something when you talked to them?

Marilla: Uh-uh.

Tom: Was there something about a camera or pictures?

Marilla: Look. Is that cute?

Tom: I see.

Marilla: Is that cute?

Tom: It's cute. It's kind of cute.

Marilla: I know.

Tom: Marilla.

Marilla: What?

Tom: Was there something about camera or pictures?

Marilla: Not really.

Tom: Not really?

Marilla: Can we go out and see my mom now?

Tom: Ok. Marilla. When he licked your bottom, did that happen that last time you were there or did it happen before also?

Marilla: Last time I was there.

Marilla
Tom, Marilla, Mom/Melissa, Female

Tom: Were there other times it happened?

Marilla: No. Look.

Tom: I see. Was there other times other things happened?

Marilla: Can I see my mom now? Is that ok with you?

Tom: Do you want to take a short break? Ok. Will you come back and talk to me again? 'Cause it's been really nice to talk to you.

Marilla: I know.

Tom: Can I ask - is there any questions you want to ask me?

Marilla: Not really.

Tom: So, everything you've told me –

Marilla: Well, what's your dog's name?

Tom: Junior.

Marilla: Junior? My brother's dog's name, at my brother's class there's a boy named Junior. And he always hits me, not Jayden. And he always hits the rest of my friends, not even my brother not my friend Jayden. That's not really fair.

Tom: No, it's not.

Marilla: Then he pushes me and when I say stop following me he keeps following me.

Tom: So, was everything that you told me today the truth?

Marilla: Yes.

Tom: I thank you for that. If you remember anything else – well, let me ask you this—

Marilla: Did you see my scratch on the back of my foot?

Tom: Yeah. Oh yeah. Just a little bit of a scratch. Do you feel safe at home with your mom?

Marilla: Yeah.

Tom: And why do you feel safe at home with your mom?

Marilla: "Cause I love her and because I like being home with her.

Tom: What about your daddy? Do you feel safe with him?

Marilla
Tom, Marilla, Mom/Melissa, Female

Marilla: Yeah, but sometimes I sleep in the night with him. All night long.

Tom: Which daddy do you sleep with?

Marilla: Daddy Adam.

Tom: Do you feel safe with Daddy Ryan?

Marilla: Yes.

Tom: Ok, well, we're going to stop, but will you come back to me and talk to me if you need to?

Marilla: Yes.

Tom: Thank you. We're going to end the interview. It is 1:35 PM. Thank you. That was a long interview huh?

Marilla: Uh-huh.

[End of Audio]

Exhibit “C”

Mother of Victim Statement

14-A06787

ABERDEEN POLICE DEPARTMENT

Date 4/15/14 Time 4:20 Service Request #: _____
 Name Melissa S. Maurer Date of Birth: 3.22.1985
 Address 1425 View Ave, Centralia WA 98531 Home # 360.791.5850 Work # 360.745.6221

I do hereby give the following statement to Jason Perkinson 2021 whom I know to be a police officer with the Aberdeen Police Department, Aberdeen, WA, voluntarily and without promise or threat.

On April 13, 2014 I, Melissa S. Maurer picked up my daughter, Morilla Anne Rocquin from visitation with her biological father, Ryan A. Rocquin, at 4:30 pm in Oakville, WA. The following evening, on April 14, 2014 at 5:15 pm, as Morilla and I were in the bathroom of our home cleaning her ears, she disclosed to me that "Daddy Ryan licks her bottom" when I asked her to clarify, she said that "Daddy Ryan licked her bottom and took pictures." I ask her what type of pictures and she replied "Naughty pictures." She then went on to say that "he touched her bottom with a candle, a pink candle. But not a real one." At this point I asked her to hold on just a moment as I went to retrieve my cell phone from the other room. Upon return to the bathroom, I set the phone's camera to video, pressed record and set the phone on the table. At that point I asked her to tell me again what she just told me. She said, "Daddy Ryan took a picture of when he was licking my bottom." I asked her, "When what?" She replied, "When he was licking my bottom and touching my bottom with a candle. It wasn't a real candle. It was a pink candle, it had (birds/burns) on it." I replied, "Oh yeah? Okay. What kind of pictures was he taking?" She replied "Pictures of my bottom." I said, "Huh." She said "I just ugly." I asked, "Who says it's ugly?" She said "... well, mostly I don't like it." I ask "You don't like it?" She replied, "No, it hurts." I replied, "Ok, I love you, ya know." At this point the recording stopped and she asked to go play outside. At my assent she ran outside and I placed a call to 911.

I have read each page of this statement consisting of 1 page(s). Each page bears my signature, and all corrections, if any, bear my initials. I certify (or declare) under penalty perjury under the laws of the State of Washington that the entire statement is true and correct. Signed at Aberdeen on 4/15/14.

WITNESSED BY:

SIGNATURE

ABERDEEN POLICE DEPARTMENT WA0140100 210 EAST MARKET STREET ABERDEEN WA 98520 (360) 533-3180

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COURT OF APPEALS
DIVISION II

2016 NOV 28 AM 9:35

STATE OF WASHINGTON

BY _____
DEPUTY

**COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON**

STATE OF WASHINGTON,

Plaintiff/Respondent,

v.

RYAN ROCQUIN,

Defendant/Appellant.

Cause No. 48755-1-II

**DECLARATION
OF SERVICE**

I, Douglas D. Phelps, declare as follows: That I am over the age of eighteen (18) years, not a party to this action, and competent to be a witness herein. That I, as attorney of record for the Defendant/Appellant, served in the manner indicated below, an original of the Petitioner's Response, on November 22, 2016 to the following in the manner indicated:

COURT OF APPEALS DIVISION III
950 Broadway, Suite 300
Tacoma, WA 98402

☒ U.S. Regular Mail

GRAY'S HARBOR PROSECUTOR
102 W. BROADWAY, RM. 102
MONTESANO, WA 98563

☒ U.S. Regular Mail

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed at Spokane, Washington, this 22nd day of November, 2016.


DOUGLAS D. PHELPS